

RESOLUTION NO. 4460

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF AUBURN, WASHINGTON, CONSTITUTING
AN ORDER REGARDING THE MAXIMUM
PERMITTED BASIC PROGRAMMING SERVICE
RATE SET FORTH IN THE FEDERAL
COMMUNICATIONS COMMISSION FORM 1240
FILED BY COMCAST ON OR ABOUT APRIL 1, 2008

WHEREAS, Section 623 of the Cable Communications Policy Act of 1984, 47 U.S.C. § 543, as amended, authorizes local franchising authorities, such as the City of Auburn, Washington (hereinafter the "City"), to regulate rates for basic cable service; and

WHEREAS, the City is certified as a rate regulation authority pursuant to rules of the Federal Communications Commission (hereinafter "FCC"); and

WHEREAS, Comcast Cable Communications LLC, (hereinafter "Comcast"), the local franchise holder, filed with the City an FCC Form 1240 "Updating Maximum Permitted Rates for Regulated Cable Services", on or about April 1, 2008, purporting to set forth and justify the maximum rate it could charge to subscribers for basic cable service (hereinafter the "2008 FCC Form 1240"); and

WHEREAS, as the City raised a concern on the "pre-approval" FCC Form 1235 network upgrade add-on amount included with the 2008 FCC Form 1240 rate filing; and

WHEREAS, Comcast has proposed to settle the matter identified by the City, as set forth in a March 3, 2009, letter from Comcast to the City; and

WHEREAS, the City believes it is in the public interest to avoid the delay, uncertainty and costs associated with the continued review of the 2008 FCC

Form 1240 and the Preliminary FCC Form 1235, and any subsequent litigation before the FCC.

WHEREAS, the rate set forth herein will govern Comcast's basic service rate until Comcast lawfully implements a further rate change pursuant to applicable FCC regulations,

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, HEREBY RESOLVES as follows:

Section 1. The "pre-approval" version FCC Form 1235 filed March 1, 1999 and its calculated \$1.16 network upgrade add-on shall be considered the "Final" version FCC Form 1235 for purposes of complying with FCC rules and the instruction for FCC Form 1235, and Comcast agrees that it is barred from filing any additional FCC Forms 1235 addressing costs incurred with respect to the network upgrade identified in the March 1, 1999, FCC Form 1235. Both parties agree that the upgrade costs for the Auburn system have been fully recovered for the applicable period represented in the form, and that Comcast shall at no time charge the network upgrade add-on set forth in the March 1, 1999, FCC Form 1235. This agreement shall release Comcast from any future refund liability arising out of the March 1, 1999 filing of the FCC Form 1235 for Auburn. The City agrees that this satisfies and resolves any and all rate issues regarding all service rate filings submitted by Comcast to the City prior to the 2009 FCC Form 1240 rate filing.

Section 2. With the exception of the FCC Form 1235 network add-on set forth in the March 1, 1999, FCC Form 1235, Comcast's maximum permitted

rate for basic cable service, as calculated in the 2008 FCC Form 1240, is neither approved nor denied, but may: (i) function as a basic service rate ceiling during the relevant rate period; and (ii) be utilized in future basic service rate filings, to the extent permitted by and consistent with FCC rules and decisions.

Section 3. Comcast shall not charge any rate higher than the maximum permitted rate set forth in the 2008 FCC Form 1240, less the FCC Form 1235 network add-on set forth in the March 1, 1999, FCC Form 1235, nor increase that rate, unless such rate is first filed with and approved by the City, in accordance with applicable law and regulations, including but not limited to the notice requirements imposed by 47 C.F.R. § 76.1603, or as otherwise expressly permitted under applicable law and regulations.

Section 4. Comcast may charge rates less than the lawful maximum permitted rate for basic service, as long as such rates are applied in a uniform and nondiscriminatory way, pursuant to applicable federal, state and local laws and regulations. The City, however, shall not be deemed to have approved such rates.

Section 5. This Order is based on the representations made by Comcast in its 2008 FCC Form 1240. Should information come to the City's attention that these representations were inaccurate in any material way, the City reserves the right to take appropriate action. This Order is not to be construed as a finding that the City has accepted as correct any specific entry, explanation, calculation or rate in the 2008 FCC Form 1240.

Section 6. The City reserves all of its rights with respect to rate regulation, including (but not limited to): (i) the right to request and review data,

and documents concerning the 2008 FCC Form 1240 in order to determine the impact, if any, such data and documents have on rates proposed in future basic service rate filings; (ii) the right to address issues raised in the 2008 FCC Form 1240 that are relevant to any City review of subsequent basic service rate filings; and (iii) the right to request additional information concerning the 2008 FCC Form 1240 that is relevant to any City review of subsequent basic service rate filings.

Section 7. This Order constitutes a written decision for purposes of 47 C.F.R. § 76.936(a).

Section 8. This Order shall be released to the public and to Comcast, and a public notice shall be published stating that this Order has been issued and is available for review, pursuant to 47 C.F.R. § 76.936(b).

Section 9. That the Mayor is authorized to implement such administrative procedures as may be necessary to carry out the directives of this legislation.

Section 10. That this Resolution shall take effect and be in full force upon passage and signatures hereon.

Dated and Signed this _____ day of _____, 2009.

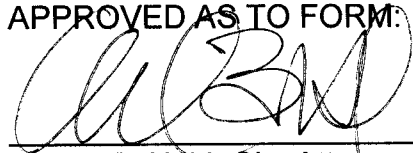
CITY OF AUBURN

PETER B. LEWIS
MAYOR

ATTEST:

Danielle E. Daskam, City Clerk

APPROVED AS TO FORM:

A handwritten signature in black ink, appearing to read "DBH", is written over a horizontal line.

Daniel B. Held, City Attorney